DOE F 1325.8
(8-89)

United States Government Department of Energy

memorandum

DATE: August 20, 1996

REPLY TO ATTN OF: Office of Environmental Policy and Assistance(EH-413):Powers:6-7301

SUBJECT: CHANGES TO THE LIST OF TOXIC CHEMICALS REPORTED UNDER SECTION 313 OF THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

TO: Department of Energy TRI Contacts

PURPOSE The purpose of this memorandum is to provide the Field TRI Contacts with an update of changes to the list of toxic chemicals reported under the Toxic Chemical Release Inventory (TRI).

BACKGROUND The Environmental Protection Agency (EPA) from time to time adds or deletes toxic chemicals from the list subject to reporting under TRI. Attached are Federal Register notices deleting three toxic chemicals from the TRI reporting list -- diethyl phthalate, di-(2-ethylhexyl) adipate, and non-aerosol forms of hydrochloric acid. By promulgating these rules, EPA is releving facilities of their obligation to report releases of and other waste management information that occurred during the 1995 reporting year, and for activities in the future.

DOE facilities that have already filed a Form R report for any of these chemicals deleted from the 1995 list should review these changes. If applicable, withdrawal requests and/or revised Form Rs should be submitted to EPA, the State and EH-1. Revisions received by EPA by October 1, 1996, will be reflected in EPA's Public Data Release in March 1997.

ADDITIONAL INFORMATION If you have any questions regarding changes to the TRI list please contact me by ...

- calling (202) 586-7301
- faxing messages to (202) 586-3915
- communicating electronically, via Internet, to jane.powers@hq.doe.gov

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Again, I would like to communicate with you by the e-mail. If you have an Internet address, please forward it to me. Thanks.

Jane Powers

Jane Powers
EH Representative
to the Waste Reduction Steering Committee

Attachment (3)

cc (w/out attachment)
Thomas T. Traceski, EH-413
Dwight Emerson, Analytical Services
Waste Reduction Steering Committee
Field Waste Minimization Contacts

DISTRIBUTION

DOE TRI Contacts

Maria Williams, U.S. DOE, Rockwell Int'l
Larry Sparks, U.S. OE Y-12 Plant
Richard E. Frounfeker, U.S. DOE Oak Ridge K-25 Site
W.M. Belvin, U.S. DOE Oak Ridge National Laboratory
Dave Roberts, U.S. DOE Savannah River Site
Tom Pauling, U.S. DOE Weldon Spring Site
Mary Haugh, U.S. DOE Rocky Flats Plant
Mike Hug, U.S. DOE Stanford Linear Accelerator Center
Sheila Bubka, U.S. DOE Brookhaven National Laboratory
Jon Cooper, U.S. DOE Fermi National Accelerator Laboratory
Walter J. Quaider, U.S. DOE Fernald Environmental Management Project
Dale Jackson, U.S. DOE Hanford Site
Jon Mack, U.S. DOE Los Alamos National Laboratory
Dewintus Perkins, U.S. DOE Portsmouth Gaseous Diffusion Plant
David H. Doyle, U.S. DOE Naval Petroleum Reserve No. 3
Peter Sanders, U.S. DOE Nevada Test Site
Laura Bingham, U.S. DOE Idaho National Engineering Laboratory
Mike Merker, U.S. DOE Mound Plant
David Ingle, U.S. DOE Pinellas Plant
Ron W. Gough, U.S. DOE Kansas City Plant
Chui Fan Cheng, U.S. DOE Sandia National Laboratories, New Mexico
Ken Chiu, U.S. DOE Argonne National Laboratory
Gary D. Walker, U.S. DOE Naval Petroluem Reserves of California
Steve Harris, U.S. DOE Lawrence Livermore National Laboratory
Elizabeth Mathews, U.S. DOE West Valley Demonstration Project
Dean Triebel, U.S. DOE Pantex Plant

CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under the docket number [PP4F4291/R2265] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act, under section 801(a) (1) (A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (Pub. L. 104-121, 110 Stat. 847), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A statement explaining the factual basis for this certification was published in the Federal Register of May 4, 1981 (46 FR 24950).

In addition, this action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28,1993), entitled *Enhancing the Intergovernmental Partnership*, or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 25, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By amending § 180.418 in the table therein, by removing the entry for cabbage and by adding and alphabetically inserting the following raw agricultural commodities to read as follows:

§ 180.418 Cypermethrin; tolerances for residues.

* * * * *

Commodities	Parts per million
Brassica head and stem	2.0
* * * * *	
Leafy brassica	14.0
* * * * *	

[FR Doc. 96–19458 Filed 7–30–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 372

[OPPTS–400095A; FRL–5389–6]

Di-(2-ethylhexyl) Adipate; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is deleting di-(2-ethylhexyl) adipate (DEHA) (CAS No. 103-23-1), also known as bis(2-ethylhexyl) adipate, from the list of chemicals subject to reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). Specifically, EPA is deleting DEHA because the Agency has concluded that DEHA meets the deletion criteria of EPCRA section 313(d)(3). By promulgating this rule, EPA is relieving facilities of their obligation to report releases of and other waste management information on DEHA that occurred during the 1995 reporting year, and for activities in the future.

EFFECTIVE DATE: This rule is effective July 31, 1996.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Acting Petitions Coordinator, 202-260-3882, e-mail: bushman.daniel@epamail.epa.gov, for specific information on this final rule, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1-800-535-0202, in Virginia and Alaska: 703-412-9877, or Toll free TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Affected Entities

Entities potentially affected by this action are those which manufacture, process, or otherwise use di-(2-ethylhexyl) adipate (DEHA) and which are subject to the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023 and section 6607 of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13106. Some of the affected categories and entities include:

Category	Examples of affected entities
Industry	Facilities that compound, shape, or manufacture plastic and rubber products. Metal working industries including foundries, automotive plants, coating and engraving shops, and metal products companies. Firms that formulate or produce adhesives and sealants; lubricants for jet engines; pharmaceuticals, perfumes, and cosmetics; and other organic chemicals.
Federal Government	Federal Agencies that manufacture, process, or otherwise use DEHA.

This table is not meant to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in part 372 subpart B of Title 40 of the Code of Federal Regulations.

B. Statutory Authority

This action is taken under sections 313(d) and (e)(1) of EPCRA. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 9909-499).

C. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities must also report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of PPA. Section 313 of EPCRA established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. DEHA was included in the initial list of chemicals and chemical categories. Section 313(d) authorizes EPA to add chemicals to or delete chemicals from the list, and sets forth criteria for these actions. Under section 313(e)(1), any person may petition EPA to add chemicals to or delete chemicals from the original statutory list. Pursuant to EPCRA section 313(e)(1), EPA must respond to petitions within 180 days either by initiating a rulemaking or by publishing an explanation of why the petition has been denied.

EPA issued a statement of petition policy and guidance in the Federal Register of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for petitions. On May 23, 1991 (56 FR 23703), EPA issued a statement of policy and guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compounds category. EPA has published a statement clarifying its interpretation of the section 313(d)(2) and (3) criteria for adding and deleting chemicals from the section 313 toxic chemical list (59 FR 61439, November 30, 1994) (FRL-4922-2).

II. Description of Petition and Proposed Action

On January 18, 1995, EPA received a petition from the Chemical Manufacturers Association (CMA) to exclude DEHA from the EPCRA section 313 list of toxic chemicals. Specifically, the petition requests that DEHA be deleted from the list of reportable chemicals and not be subject to the annual reporting requirements under EPCRA section 313 and section 6607 of PPA. The petitioner contends that DEHA should be deleted from the EPCRA section 313 list because it does not meet any of the EPCRA section 313(d)(2) criteria.

Following a review of the petition, EPA granted the petition and issued a proposed rule in the Federal Register of August 1, 1995 (60 FR 39132) (FRL-4958-8), proposing to delete DEHA from the list of toxic chemicals subject to the reporting requirements under EPCRA section 313. EPA's proposal was based on its preliminary conclusion that DEHA meets the EPCRA section 313(d)(3) criteria for deletion from the list. With respect to deletions, EPCRA provides at section 313(d)(3) that ''[a] chemical may be deleted if the Administrator determines there is not sufficient evidence to establish any of the criteria described in paragraph [(d)(2)(A)-(C)].'' In the proposed rule, EPA preliminarily concluded that the available toxicological data indicates that DEHA does not cause adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries, and causes systemic, developmental, and reproductive toxicities only at relatively high doses and thus has low chronic toxicity. Furthermore, EPA preliminarily concluded that DEHA does not pose a significant hazard to the environment. EPA also preliminarily concluded that releases of DEHA will not result in exposures of concern. Therefore, EPA preliminarily concluded that based on the total weight of available data, DEHA cannot reasonably be anticipated to cause a significant adverse effect on human health or the environment.

III. Final Rule and Rationale for Delisting

In response to the petition from CMA, EPA is deleting DEHA from the list of chemicals for which reporting is required under section 313 of EPCRA and PPA section 6607. EPA is delisting this chemical because the Agency has determined that DEHA satisfies the delisting criteria of EPCRA section 313(d)(3).

A. Response to Comments

EPA received three comments in response to the proposed rule. All three of the commenters noted their support for the deletion of DEHA from the EPCRA section 313 list. EPA agrees with the commenters that DEHA satisfies the criterion for delisting.

B. Rationale for Delisting and Conclusions

EPA has concluded that the assessment set out in the proposed rule should be affirmed. Because of questions raised recently about the ability of DEHA to produce hormone disruption, EPA has looked at this issue. EPA is aware of limited and preliminary *in vitro* data indicating that DEHA reduced the binding of the tritiated natural estrogen, 17β-estradiol, to the rainbow trout estrogen receptor (Ref. 1). However, these results were obtained only at high concentrations and indicated that DEHA's potential binding activity is very weak compared to the estradiol. In addition, EPA is not aware of any data that demonstrate that DEHA produces estrogenic effects *in vivo*. The *in vivo* toxicity data on DEHA, discussed below, also indicate that DEHA is a weak developmental and reproductive toxicant. However, at this time, there is no indication that these effects are due to binding to the estrogen receptor. Accordingly, EPA has determined that there is insufficient evidence, at this time, to demonstrate that DEHA causes hormone disruption. In summary, based on the total weight of available data, EPA has concluded that DEHA cannot reasonably be anticipated to cause a significant adverse effect on human health or the environment, and therefore DEHA meets the delisting criterion of section 313(d)(3). A more detailed discussion of the rationale for delisting is given in the proposed rule (August 1, 1995, 60 FR 39134) (FRL-4958-8).

Based on current data, EPA concludes that DEHA does not meet the toxicity criterion of EPCRA section 313(d)(2)(A) because DEHA exhibits acute oral toxicity only at levels that greatly exceed estimated exposures outside the facility. Specifically, DEHA cannot reasonably be anticipated to cause ''. . . significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases.''

EPA has concluded that there is not sufficient evidence to establish that DEHA meets the criterion of EPCRA section 313(d)(2)(B). The lowest-observed-adverse-effect-level (LOAEL) for systemic toxicity, in rats, is 1,125 milligrams/kilogram/day (mg/kg/day) for both chronic and 13-week studies. In mice, the LOAELs ranged from 2,800 mg/kg/day (chronic study) to 900 mg/kg/day (13-week study). Also, based on limited data, the LOAEL for developmental toxicity is 1,080 mg/kg/day and the no-observed-adverse-effect-level (NOAEL) is 170 mg/kg/day. Based on limited data, the LOAEL and NOAEL for reproductive toxicity are 1,080 and 170 mg/kg/day. EPA has no information indicating that DEHA causes any other section 313(d)(2)(B) effects. EPA considers the above doses where DEHA caused adverse effects to be relatively high and concludes that DEHA has low chronic toxicity. Therefore, EPA conducted an exposure assessment for chronic human exposure and found that exposures at the estimate levels are not likely to result in adverse health risks in humans. EPA has estimated that releases of DEHA will not result in exposures of concern. Therefore, EPA has concluded that DEHA does not meet the EPCRA section 313(d)(2)(B) listing criterion.

EPA has also concluded that DEHA does not meet the toxicity criterion of EPCRA section 313(d)(2)(C) because it cannot reasonably be anticipated to cause adverse effects on the environment of sufficient seriousness to warrant continued reporting. EPA considers DEHA to exhibit low toxicity to aquatic organisms. Based on structure activity relationships (SARs), no toxic effects are anticipated for both freshwater and saltwater species at saturation. For sediment species, acute and chronic toxicity are expected to occur only at high concentrations: 1,000 and 100 mg/kg (dry weight), respectively. Therefore, DEHA is not expected to pose a significant hazard to the environment.

Thus, in accordance with EPCRA section 313(d)(3), EPA is deleting DEHA from the section 313 list of toxic chemicals. Today's action is not intended, and should not be inferred, to affect the status of DEHA under any other statute or program other than the reporting requirements under EPCRA section 313 and PPA section 6607.

IV. Effective Date

This action becomes effective July 31, 1996. Thus, the last year in which facilities had to file a Toxics Release Inventory (TRI) report for DEHA was 1995, covering releases and other activities that occurred in 1994.

EPCRA section 313(d)(4) provides that ''[a]ny revision'' to the section 313 list of toxic chemicals shall take effect on a delayed basis. EPA interprets this delayed effective date provision to apply only to actions that add chemicals to the section 313 list. For deletions, EPA may, in its discretion, make such actions immediately effective. An immediate effective date is authorized, in these circumstances, under 5 U.S.C. section 553(d)(1) because a deletion from the section 313 list relieves a regulatory restriction.

EPA believes that where the Agency had determined, as it has with this chemical, that a chemical does not satisfy any of the criteria of section 313(d)(2)(A)-(C), no purpose is served by requiring facilities to collect data or file TRI reports for that chemical, or, therefore, by leaving that chemical on the section 313 list for any additional period of time. This construction of section 313(d)(4) is consistent with previous rules deleting chemicals from the section 313 list. For further discussion of the rationale for immediate effective dates for EPCRA section 313 delistings, see 59 FR 33205 (June 28, 1994).

V. Rulemaking Record

The record supporting this final rule is contained in docket control number OPPTS-400095A. All documents, including an index of the docket and the reference listed in Unit VI. of this preamble, are available in the TSCA Nonconfidential Information Center (NCIC), also known as, TSCA Public Docket Office, from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. TSCA NCIC is located at EPA Headquarters, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

VI. References

1. Jobling, S., Reynolds, T., White, R., Parker, M. G., Sumpter, J. P., ''A Variety of Environmentally Persistent Chemicals, Including Some Phthalate Plasticizers Are Weakly Estrogenic,'' *Environmental Health Perspectives*, 103, (1995), pp. 582-587.

VII. Regulatory Assessment Requirements

It has been determined that this action is not a ''significant regulatory action'' within the meaning of Executive Order 12866 (58 FR 51735, October 4, 1993), because this action eliminates an existing regulatory requirement. The Agency estimates the total cost savings to industry from this action to be approximately $322,620 and the savings to EPA would be approximately $8,664.

This action does not impose any Federal mandate on State, local or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995 (Pub. L. 1041). Also, given its deregulatory nature, I hereby certify pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this action does not have a significant economic impact on a substantial number of small entities. As required, information to this effect has been

forwarded to the Small Business Administration.

This action does not have any information collection requirements subject to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The elimination of the information collection components for this action is expected to result in the elimination of 6,383 paperwork reduction hours.

In addition, pursuant to Executive Order 12898 (59 FR 7629, February 16, 1994), entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' the Agency has determined that there are no environmental justice-related issues with regard to this action since this final rule simply eliminates reporting requirements for a chemical that, under the criteria of EPCRA section 313, does not pose a concern for human health or the environment.

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104-121, 110 Stat. 847), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: July 25, 1996.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 372 is amended as follows:

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

§ 372.65 [Amended]

2. Sections 372.65(a) and (b) are amended by removing the entry for bis(2-ethylhexyl) adipate under paragraph (a) and the entire CAS number entry for 103-23-1 under paragraph (b).

[FR Doc. 96–19452 Filed 7–31–96; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 95

RIN 0970–AB46

Reduction of Reporting Requirements for the State Systems Advance Planning Document (APD) Process

AGENCY: Administration for Children and Families, HHS.

ACTION: Final rule.

SUMMARY: This final rule decreases the reporting burden on States relative to the State systems advance planning document (APD) process by increasing the threshold amounts above which APDs and related procurement documents need to be submitted for Federal approval. The APD process is the procedure by which States obtain approval for Federal financial participation in the cost of acquiring automatic data processing equipment and services. Additionally, this rule eliminates the requirement for State submittal of biennial security plans for Federal review.

EFFECTIVE DATE: July 31, 1996.

FOR FURTHER INFORMATION CONTACT: Bill Davis, State Systems Policy Staff, 370 L'Enfant Promenade SW., Washington, DC 20447, telephone (202) 401–6404.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3507), information collection requirements relating to automated data processing and information retrieval systems have been approved by OMB Approval No. 0992–0005. The provisions of this rule do not contain any additional reporting and/or recordkeeping requirements subject to OMB approval.

Statutory Authority

These regulations are published under the general authority of sections 402(a)(5), 452(a)(1), 1902(a)(4), and 1102 of the Social Security Act (the Act).

Background and Description of Regulatory Provisions

State public assistance agencies acquire automatic data processing (ADP) equipment and services for computer operations which support the Aid to Families with Dependent Children, Adult Assistance, Child Support Enforcement, Medicaid, Child Welfare, Foster Care and Adoption Assistance, Job Opportunities and Basic Skills Training (JOBS), and Refugee Resettlement programs. Conditions and procedures for acquiring such systems are found at 45 CFR part 95. To reduce the reporting burden on States and to provide better use of Federal resources, we issued a notice of proposed rulemaking revising these requirements which was published in the Federal Register July 24, 1995 (60 FR 37858). We received 23 letters of public comment regarding the proposed rule from State agencies and other interested parties. Specific comments and responses follow the discussion of regulatory provisions. These comments did not generate any changes to the regulatory provisions outlined in the proposed rule.

Currently any competitive acquisition over $500,000 or any sole source acquisition over $100,000 in total State and Federal costs which will be matched at the regular Federal financial participation (FFP) rate, as defined in Section 95.605 of these rules, requires written prior approval of an APD. Project cost increases of more than $300,000 require the submission of an APD Update. Also, most procurement documents (Request for Proposals (RFPs) and contracts) over $300,000, and contract amendments over $100,000 must be approved by the Federal funding agencies.

As a first step toward reducing the reporting burden on States and improving the use of Federal resources, we are raising the threshold amounts for regular match acquisitions. We will continue to require written prior approval for all equipment and services acquired at an enhanced matching rate.

Accordingly, these rules revise 45 CFR 95.611(a)(1), which provides that States must obtain prior written approval for ADP equipment or services anticipated to have total acquisition costs of $500,000 or more in Federal and State funds, to increase the $500,000 threshold amount to $5 million or more. Similarly, paragraph (a)(4), which requires prior written approval with respect to State plans to acquire noncompetitively from a non-government source, ADP equipment and services, with a total acquisition cost of greater than $100,000, is revised to require that a State obtain prior written approval of its justification for a sole source acquisition with total State and Federal costs of more than $1 million but no more than $5 million and to provide that noncompetitive acquisitions of greater than $5 million continue to be subject to the requirements of paragraph (b), which

EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under Section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no federal mandates for state, local or tribal governments or the private sector. The Act excludes from the definition of a ''federal mandate'' duties that arise from participation in a voluntary federal program, except in certain cases where a ''federal intergovernmental mandate'' affects an annual federal entitlement program of $500 million or more that are not applicable here. The Kansas request for approval of revisions to its authorized hazardous waste program is voluntary and imposes no federal mandate within the meaning of the Act. Rather, by having its hazardous waste program approved, the state will gain the authority to implement the program within its jurisdiction, in lieu of the EPA thereby eliminating duplicative state and federal requirements. If a state chooses not to seek authorization for administration of a hazardous waste program under RCRA Subtitle C, RCRA regulation is left to the EPA.

In any event, the EPA has determined that this rule does not contain a federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. The EPA does not anticipate that the approval of the Kansas hazardous waste program referenced in today's notice will result in annual costs of $100 million or more. The EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector since the state, by virtue of the approval, may now administer the program in lieu of the EPA and exercise primary enforcement. Hence, owners and operators of treatment, storage, or disposal facilities (TSDFs) generally no longer face dual federal and state compliance requirements, thereby reducing overall compliance costs. Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265, and 270 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once the EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs under the approved state program, in lieu of the federal program.

Certification Under the Regulatory Flexibility Act

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. The EPA recognizes that small entities may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, since such small entities which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265 and 270, this authorization does not impose any additional burdens on these small entities. This is because the EPA's authorization would result in an administrative change (i.e., whether the EPA or the state administers the RCRA Subtitle C program in that state), rather than result in a change in the substantive requirements imposed on small entities. Once the EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small entities will be able to own and operate their TSDFs under the approved state program, in lieu of the federal program. Moreover, this authorization, in approving a state program to operate in lieu of the federal program, eliminates duplicative requirements for owners and operators of TSDFs in that particular state.

Therefore, the EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively approves the Kansas program to operate in lieu of the federal program, thereby eliminating duplicative requirements for handlers of hazardous waste in the state. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under Section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by Section 804(2) of the APA as amended.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This rulemaking is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended [42 U.S.C. 6912(a), 6926, 6974(b)].

Dated: July 17, 1996.

Dennis Grams,

Regional Administrator.

[FR Doc. 96–19086 Filed 7–26–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 372

[OPPTS-400096A; FRL-5372-6]

Diethyl Phthalate; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is deleting diethyl phthalate (DEP) from the list of chemicals subject to the reporting requirements under section 313 of the Emergency Planning and Community

Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). Specifically, EPA is deleting DEP because the Agency has concluded that DEP meets the deletion criterion of EPCRA section 313(d)(3). By promulgating this rule, EPA is relieving facilities of their obligation to report releases of and other waste management information on DEP that occurred during the 1995 reporting year, and for activities in the future.

DATES: This rule is effective July 29, 1996.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Acting Petitions Coordinator, 202-260-3882, e-mail: bushman.daniel@epamail.epa.gov, for specific information on this final rule, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1-800-535-0202, in Virginia and Alaska: 703-412-9877 or Toll free TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Affected Entities

Entities potentially affected by this action are those which manufacture, process, or otherwise use diethyl phthalate (DEP) and which are subject to the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023 and section 6607 of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13106. Some of the affected categories and entities include:

Category	Examples of affected entities
Industry	Facilities that produce soaps, detergents, cleaners, perfumes, cosmetics, other toilet preparations, unsupported film and sheet plastics, other plastic products, and miscellaneous industrial organic chemicals.
Federal Government	Federal Agencies that manufacture, process, or otherwise use DEP.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in part 372 subpart B of Title 40 of the Code of Federal Regulations.

B. Statutory Authority

This action is taken under sections 313(d) and (e)(1) of EPCRA. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99–9499).

C. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities must also report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of PPA. Section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. DEP was included in the initial list of chemicals and chemical categories. Section 313(d) authorizes EPA to add chemicals to or delete chemicals from the list, and sets forth criteria for these actions. Under section 313(e)(1), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA has added and deleted chemicals from the original statutory list. Pursuant to EPCRA section 313(e)(1), EPA must respond to petitions within 180 days either by initiating a rulemaking or by publishing an explanation of why the petition has been denied.

EPA issued a statement of petition policy and guidance in the Federal Register of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for petitions. On May 23, 1991 (56 FR 23703), EPA issued a statement of policy and guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories. EPA has published a statement clarifying its interpretation of the section 313(d)(2) and (3) criteria for adding and deleting chemicals from the section 313 toxic chemical list (59 FR 61432, November 30, 1994) (FRL-4922-2).

II. Description of Petition and Proposed Action

On February 7, 1995, the Fragrance Materials Association petitioned the Agency to delete DEP (Chemical Abstract Service (CAS) Registry No. 84-66-2) from the EPCRA section 313 list of toxic chemicals. The petitioner contends that DEP, which is mainly used as a plasticizer, should be deleted from the EPCRA section 313 list because it does not meet any of the EPCRA section 313(d)(2) criteria.

Following a review of the petition, EPA granted the petition and issued a proposed rule in the Federal Register of September 5, 1995 (60 FR 46076) (FRL-4970-5) proposing to delete DEP from the list of chemicals subject to the reporting requirements under EPCRA section 313. EPA's proposal was based on its preliminary conclusion that DEP meets the deletion criteria of EPCRA section 313(d)(3). With respect to deletions, EPCRA provides at section 313(d)(3) that ''[a] chemical may be deleted if the Administrator determines there is not sufficient evidence to establish any of the criteria described in paragraph [(d)(2)(A)-(C)].'' In the proposed rule, EPA preliminarily concluded that the available toxicological data indicates that DEP does not cause adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility cite boundaries, and causes systemic, developmental, and reproductive toxicities only at relatively high doses and thus has low chronic toxicity. Furthermore, EPA preliminarily concluded that DEP exhibits low toxicity to aquatic organisms, and is not likely to bioconcentrate. EPA also preliminarily concluded that releases of DEP will not result in exposures of concern. Therefore, EPA preliminarily concluded that based on the total weight of available data, DEP cannot reasonably be anticipated to cause a significant adverse effect on human health or the environment.

III. Final Rule and Rationale for Delisting

In response to the petition from the Fragrance Materials Association, EPA is deleting DEP from the list of chemicals for which reporting is required under EPCRA section 313 and PPA section 6607. EPA is delisting this chemical because the Agency has determined that DEP satisfies the delisting criterion of EPCRA section 313(d)(3).

A. Response to Comments

EPA received four comments in response to the proposed rule, all in support of the proposed deletion. EPA agrees with the commenters that DEP satisfies the criterion for delisting. One commenter requests that EPA make this action effective as of the date of the proposal, September 5, 1995, in order for the deletion to apply for the 1995 reporting year. While this action is effective as of the date of publication of this final rule, not the date of the proposal, EPA agrees that DEP should not be reported for the 1995 calendar year. As discussed in Unit IV. of this preamble, reporting for DEP is not required for the 1995 reporting year, covering activities and releases which occurred in 1995.

B. Rationale for Delisting and Conclusions

EPA has concluded that the assessment set out in the proposed rule should be affirmed. Further, because of questions raised recently about the ability of phthalates to produce hormone disruption, EPA has looked at this issue as it relates to DEP. While EPA is aware of limited and preliminary *in vitro* data indicating that some phthalates bind/activate estrogen receptors at high concentrations, EPA has not located any such information on DEP. Further, for those few phthalates tested *in vitro*, there is no indication that any common structural feature of these compounds is responsible for the observed activity. In addition, EPA is not aware of any data that demonstrate that DEP produces estrogenic effects *in vivo*. Accordingly, EPA has determined that there is insufficient evidence, at this time, to demonstrate that DEP causes hormone disruption. In summary, based on the total weight of available data, EPA has concluded that DEP cannot reasonably be anticipated to cause a significant adverse effect on human health or the environment, and therefore DEP meets the delisting criterion of 313(d)(3). A more detailed discussion of the rationale for delisting is given in the proposed rule (60 FR 46076, September 5, 1995) (FRL–4970–5).

Based on current data, EPA concludes that DEP does not meet the toxicity criterion of EPCRA section 313(d)(2)(A) because DEP exhibits acute oral toxicity only at levels that greatly exceed estimated exposures outside the facility. Specifically, DEP cannot reasonably be anticipated to cause ''. . . significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases.''

EPA has concluded that there is not sufficient evidence to establish that DEP meets the criterion of EPCRA section 313(d)(2)(B). The lowest-observed-adverse-effect-level (LOAEL) for systemic toxicity is 3,160 milligrams/kilogram/day (mg/kg/day) and the no-observed-adverse-effect-level (NOAEL) is 750 mg/kg/day. The LOAEL for developmental toxicity is 3,210 mg/kg/day and the NOAEL is 1,910 mg/kg/day. The NOAEL for reproductive toxicity is approximately 3,750 mg/kg/day, which was the highest dose tested. EPA has no information indicating that DEP causes any other section 313(d)(2)(B) effects. EPA considers the above doses where DEP caused adverse effects to be relatively high and concludes that DEP has low chronic toxicity. Therefore, EPA conducted an exposure assessment for chronic human exposure and found that exposure to DEP at the estimated levels is not likely to result in adverse health risks in humans. EPA has estimated that releases of DEP will not result in exposures of concern. Therefore, EPA has concluded that DEP does not meet the EPCRA section 313(d)(2)(B) listing criterion.

EPA has also concluded that DEP does not meet the toxicity criterion of EPCRA section 313(d)(2)(C) because it cannot reasonably be anticipated to cause adverse effects on the environment of sufficient seriousness to warrant continued reporting. DEP exhibits low toxicity to aquatic organisms (fish 96 hr median lethal concentration (LC_{50}), 12 to 100 milligrams/liter (mg/l); daphnid 48 hr LC_{50}, 50 to 90 mg/l; and algae 96 hr median effective concentration (EC_{50}), 30 to 86 mg/l, and is not likely to bioconcentrate.

Thus, in accordance with EPCRA section 313(d)(3), EPA is deleting DEP from the section 313 list of toxic chemicals. Today's action is not intended, and should not be inferred, to affect the status of DEP under any other statute or program other than the reporting requirements under EPCRA section 313.

IV. Effective Date

This action becomes effective July 29, 1996. Thus, the last year in which facilities had to file a Toxic Release Inventory (TRI) report for DEP was 1995, covering releases and other activities that occurred in 1994.

Section 313(d)(4) provides that ''[a]ny revision'' to the section 313 list of toxic chemicals shall take effect on a delayed basis. EPA interprets this delayed effective date provision to apply only to actions that add chemicals to the section 313 list. For deletions, EPA may, in its discretion, make such actions immediately effective. An immediate effective date is authorized, in these circumstances, under 5 U.S.C. section 553(d)(1) because a deletion from the section 313 list relieves a regulatory restriction.

EPA believes that where the Agency has determined, as it has with DEP, that a chemical does not satisfy any of the criteria of section 313(d)(2)(A)-(C), no purpose is served by requiring facilities to collect data or file TRI reports for that chemical, or, therefore, by leaving that chemical on the section 313 list for any additional period of time. This construction of section 313(d)(4) is consistent with previous rules deleting chemicals from the section 313 list. For further discussion of the rationale for immediate effective dates for EPCRA section 313 delistings, see 59 FR 33205 (June 28, 1994).

V. Rulemaking Record

The record supporting this decision is contained in docket control number OPPTS–400096A. All documents, including an index of the docket, are available in the TSCA Nonconfidential Information Center (NCIC), also known as, TSCA Public Docket Office from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. TSCA NCIC is located at EPA Headquarters, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

VI. Regulatory Assessment Requirements

It has been determined that this action is not a ''significant regulatory action'' within the meaning of Executive Order 12866 (58 FR 51735, October 4, 1993), because this action eliminates an existing regulatory requirement. The Agency estimates the total cost savings to industry from this action to be $124,000 per year. The cost savings to EPA is estimated at $3,000 per year.

This action does not impose any Federal mandate on State, local or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). And, given its deregulatory nature, I hereby certify pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this action does not have a significant economic impact on a substantial number of small entities. As required, information to this effect has been forwarded to the Small Business Administration.

This action does not have any information collection requirements subject to the provisions of the

Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The elimination of the information collection components for this action is expected to result in the elimination of 2,305 paperwork burden hours.

In addition, pursuant to Executive Order 12898 (59 FR 7629, February 16, 1994), entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' the Agency has determined that there are no environmental justice related issues with regard to this action since this final rule simply eliminates reporting requirements for a chemical that, under the criteria of EPCRA section 313, does not pose a concern for human health or the environment.

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104-121, 110 Stat. 847), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: July 19, 1996.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 372 is amended to read as follows:

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

§ 372.65 [Amended]

Sections 372.65(a) and (b) are amended by removing the entire entry for diethyl phthalate under paragraph (a) and removing the entire CAS No. entry for 84-66-2 under paragraph (b).

[FR Doc. 96–19075 Filed 7–26–96; 8:45 am]

BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 201

[FIRMR Amendment 9]

RIN 3090–AG04

Removal of Chapter 201, Federal Information Resources Management Regulation, From Title 41—Public Contracts and Property Management

AGENCY: Office of Policy, Planning and Evaluation, GSA.

ACTION: Final rule.

SUMMARY: This amendment removes Chapter 201, Federal Information Resources Management Regulation (FIRMR), from Title 41—Public Contracts and Property Management. This action is necessary because the Information Technology Management Reform Act of 1996, (Pub. L. 104–106) effectively removes most of the statutory basis for the FIRMR after August 7, 1996.

EFFECTIVE DATE: August 8, 1996.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, GSA, Office of Policy, Planning and Evaluation, Strategic IT Analysis Division (MKS), 18th and F Streets, NW., Room 3224, Washington, DC 20405, telephone FTS/Commercial (202) 501–4469 (v) or (202) 501–0657 (tdd), or Internet (steward.randall@gsa.gov).

SUPPLEMENTARY INFORMATION: (1) The President signed S. 1124, the National Defense Authorization Act (NDAA) For Fiscal Year 1996, (Pub. L. 104–106) on February 10, 1996. Included in the NDAA was Division E, the Information Technology (IT) Management Reform Act of 1996. Section 5105 of the said Act repeals section 111 of the Federal Property and Administrative Services Act of 1949, as amended (the Brooks Act) (40 U.S.C. 759). The Brooks Act was the authority for most of the provisions in the GSA's Federal Information Resources Management Regulation so that the Brooks Act repeal effectively removes most of the statutory basis for the FIRMR. Any FIRMR provisions that are still needed, such as those regarding records management, are being removed from the FIRMR and are being reestablished as appropriate.

(2) GSA has determined that this rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993, because it is not likely to result in any of the impacts noted in Executive Order 12866, affect the rights of specified individuals, or raise issues arising from the policies of the Administration. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Parts 201–1 Through 201–39

Archives and records, Computer technology, Federal information processing resources activities, Government procurement, Government property management, Records management, Telecommunications.

CHAPTER 201—FEDERAL INFORMATION RESOURCES MANAGEMENT REGULATION—[REMOVED AND RESERVED]

Accordingly, under the authority of 40 U.S.C. 486(c) and 751(f), Chapter 201 is removed and reserved.

Dated: July 17, 1996.

David J. Barram,

Acting Administrator of General Services.

[FR Doc. 96–19184 Filed 7–26–96; 8:45 am]

BILLING CODE 6820–25–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96–21, FCC 96–313]

Bell Operating Company Provision of Out-of-Region Interstate, Interexchange Services

AGENCY: Federal Communications Commission.

ACTION: Final Rule; change of effective date.

SUMMARY: In this Order on Reconsideration, the Commission advances the effective date of its recently released Report and Order concerning Bell operating company provision of domestic, out-of-region, interstate, interexchange services. In the Matter of Out-of-Region Interstate, Interexchange Services, CC Docket No. 96–21, FCC 96–288 (rel. July 1, 1996) (*Interim BOC Out-of-Region Order*). The effective date as specified in that *Interim BOC Out-of-Region Order* was thirty days after its publication in the Federal Register, which is August 8, 1996. To further facilitate the efficient and rapid provision of such services by the BOC as contemplated by the Telecommunications Act of 1996, the Order on Reconsideration advances the

§§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

V. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: July 2, 1996.

Chuck Clarke,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows: Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(62) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(62) On September 30, 1994, the Director of WDOE submitted to the Regional Administrator of EPA a revision to the carbon monoxide State Implementation Plan for, among other things, the CO attainment demonstration for the Puget Sound carbon monoxide nonattainment area. This was submitted to satisfy federal requirements under section 187(a)(7) of the Clean Air Act, as amended in 1990, as a revision to the carbon monoxide State Implementation Plan.

(i) Incorporation by reference.

(A) September 30, 1994, letter from WDOE to EPA submitting an attainment demonstration revision for the Puget Sound CO nonattainment area (adopted on September 30, 1994), and a supplement letter and document from WDOE, ''Reexamination of Carbon Monoxide Attainment Demonstration for the Tacoma Carbon Monoxide Monitoring Site for the Supplement to the State Implementation Plan for Washington State, A Plan for Attaining and Maintaining National Ambient Air Quality Standards for Carbon Monoxide in the Puget Sound Nonattainment Area,'' dated May 10, 1996.

[FR Doc. 96–18651 Filed 7–24–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 372

[OPPTS–400062A; FRL–5372–3]

Hydrochloric Acid; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is modifying the listing for hydrochloric acid on the list of toxic chemicals subject to the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). Specifically, EPA is deleting non-aerosol forms of hydrochloric acid because the Agency has concluded that the non-aerosol forms of hydrochloric acid meet the section 313(d)(3) deletion criterion. By promulgating this rule, EPA is relieving facilities of their obligation to report releases of and other waste management information on non-aerosol forms of hydrochloric acid that occurred during the 1995 reporting year, and for activities in the future.

DATES: This rule is effective July 25, 1996.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Acting Petitions Coordinator, 202-260-3882, e-mail: bushman.daniel @epamail.epa.gov, for specific information on this final rule, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1-800-535-0202, in Virginia and Alaska: 703–412-9877, or Toll free TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Affected Entities

Entities potentially affected by this action are those which manufacture, process, or otherwise use hydrochloric acid and which are subject to the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023, and section 6607 of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13106. Some of the affected categories and entities include:

Category	Examples of affected entities
Industry	Facilities in the manufacturing sector (Standard Industrial Classification codes 20-39) that manufacture, process or otherwise use hydrochloric acid.
Federal Government	Federal Agencies that manufacture, process, or otherwise use hydrochloric acid.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in part 372 subpart B of Title 40 of the Code of Federal Regulations.

B. Statutory Authority

This action is taken under sections 313(d) and (e)(1) of EPCRA. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99-499).

C. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities must also report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of PPA. When enacted, section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. Hydrochloric acid was included in the initial list of chemicals and chemical categories. Section 313(d) authorizes EPA to add chemicals to or delete chemicals from the list, and sets forth criteria for these actions. Under section 313(e)(1), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA has added and deleted chemicals from the original statutory list. Pursuant to EPCRA section 313(e)(1), EPA must respond to petitions within 180 days either by initiating a rulemaking or by publishing an explanation of why the petition has been denied.

EPA issued a statement of petition policy and guidance in the Federal Register of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for petitions. On May 23, 1991 (56 FR 23703), EPA issued a statement of policy and guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories. EPA has published a statement clarifying its interpretation of the section 313(d)(2) and (3) criteria for adding and deleting chemicals from the section 313 toxic chemical list (59 FR 61439, November 30, 1994) (FRL-4922-2).

II. Description of Petition and Proposed Action

On September 11, 1991, EPA received a petition from BASF Corporation, E.I. duPont de Nemours, Monsanto Company, and Vulcan Materials Company to qualify the listing for hydrochloric acid by requiring release reporting only for hydrochloric acid aerosols and deleting other forms of hydrochloric acid from the list of chemicals under EPCRA section 313. The petitioners maintain that non-aerosol forms of hydrochloric acid do not meet the statutory criteria under EPCRA section 313 for acute, chronic, or environmental effects.

There are precedents for qualified chemical listings under EPCRA section 313. The original list established by Congress contained a number of qualified listings including: aluminum (fume or dust), ammonium nitrate (solution), asbestos (friable), phosphorus (yellow or white), vanadium (fume or dust), and zinc (fume or dust). Also EPA recently modified the sulfuric acid listing (60 FR 34182, June 30, 1995) (FRL–4946–3) by exempting non-aerosol forms of sulfuric acid exactly as is being done in today's action. As with this list modification, EPA found that non-aerosol forms of sulfuric acid do not meet the toxicity criteria of section 313(d)(2). Other qualified listings include those for fibrous aluminum oxide (55 FR 5220, February 14, 1990) and water dissociable nitrate compounds (59 FR 61432, November 30, 1994) (FRL–4922–2).

Following a review of the petition, EPA granted the petition and issued a proposed rule in the Federal Register on November, 15, 1995 (60 FR 57383) (FRL-4045-4), proposing to delete non-aerosol forms of hydrochloric acid from the list of toxic chemicals under EPCRA section 313. EPA's proposal was based on its conclusion that these forms of hydrochloric acid meet the EPCRA section 313(d)(3) criterion for deletion from the list. EPCRA provides at section 313(d)(3) that ''[a] chemical may be deleted if the Administrator determines there is not sufficient evidence to establish any of the criteria described in paragraph [(d)(2)(A)-(C)].'' Specifically, in the proposed rule, EPA preliminarily concluded that there is not sufficient evidence to establish that non-aerosol forms of hydrochloric acid cause adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries, chronic human health effects, or environmental toxicity. This preliminary conclusion, which is detailed in the proposed rule, was based on the Agency's review of the petition, as well as other relevant materials included in the rulemaking record for this action. For the purposes of this final rule, EPA considers the term aerosol to cover any generation of airborne hydrochloric acid (including mists, vapors, gas, or fog) without regard to particle size.

On February 1, 1993 (58 FR 6609), EPA issued a notice announcing that a public hearing would be held to address petitions to modify the listings for both hydrochloric and sulfuric acids (on December 24, 1990, a petition was received from the Environmental Policy Center on behalf of American Cyanamid to modify the listing of sulfuric acid to include only aerosol forms of this chemical). In the February 1, 1993 notice, EPA requested comment on a number of the issues raised by commenters in response to the proposed rule to modify the listing for sulfuric acid (56 FR 34156, July 26, 1991). The Agency believed that these issues were also relevant to hydrochloric acid. Specifically, these issues were: (1) The extent to which EPA should rely on existing regulatory controls under other statutes to support a determination that continuous, or frequently recurring, releases of these acids are unlikely to cause adverse acute human health effects or significant adverse

environmental effects; (2) the sufficiency of the evidence required to determine if the non-aerosol forms of these acids meet the EPCRA section 313(d)(2)(A) and (C) criteria; (3) whether EPA should consider accidental release data in making a finding for environmental effects under EPCRA section 313(d)(2)(C); (4) the relevance of release reporting under other statutory provisions to the issue of whether non-aerosol forms of these acids meet the listing criteria; and (5) other reporting options.

The public meeting was held on March 3, 1993. At this meeting, EPA discussed the specific issues described in the February 1, 1993 notice and presented data on accidental and routine releases of sulfuric and hydrochloric acids. Comments were then presented by the public. One comment presented at the public meeting specific to hydrochloric acid came from the Great Lakes Chemical Company. This commenter stated that hydrochloric acid does not meet either of the listing criteria set forth in EPCRA section 313(d)(2)(A) or (C). The commenter discussed at length the lack of environmental risks posed by deep well injection of hydrochloric acid in oil and gas operations. EPA agrees with the commenter that non-aerosol forms of hydrochloric acid do not meet the EPCRA section 313 listing criteria and therefore none of the environmental releases, including deep well injection, of these non-aerosol forms should be reported under EPCRA section 313.

At the public meeting, EPA received other comments that pertained to both the non-aerosol forms of hydrochloric and sulfuric acid. The major comments received concerned the reporting of accidental releases, effects of the removal of these chemicals on the Right-to-Know program, reliance on other regulatory mechanisms for reporting, and the effects delisting would have on pollution prevention. A brief summary of the major comments received that are relevant to hydrochloric acid and EPA's responses to those comments follow. More detailed responses to the major issues raised by the comments presented and/or submitted at the public meeting can be found in the final rulemaking delisting non-aerosol forms of sulfuric acid (60 FR 34182, June 30, 1995) (FRL–4946–3).

EPA received comments citing concerns for accidental releases of non-aerosol forms of hydrochloric acid and the environmental damages that have resulted. As discussed further in Unit III.B. of this preamble, the Agency believes that the limited number of accidental releases of non-aerosol forms of hydrochloric acid do not result in significant adverse effects of sufficient seriousness to warrant continued listing under EPCRA section 313.

Several commenters stated their opposition to removing non-aerosol forms of hydrochloric acid from reporting under EPCRA section 313 because it defeats the intent of the Right-to-Know program. These commenters contend that removing reporting for non-aerosol forms of hydrochloric acid under EPCRA section 313 will result in a significant information gap regarding ''routine'' releases of the chemical.

EPA agrees that by delisting non-aerosol forms of hydrochloric acid, information on the management of these forms of the chemical may be more difficult to obtain. However, EPA believes that adequate information on non-aerosol forms of hydrochloric acid will still be available through other sources.

EPA received a comment stating that it is inappropriate for the Agency to rely solely on regulations developed under other statutes to determine whether significant adverse human health or environmental effects result from releases that are reported under EPCRA section 313.

While EPA does not rely solely on data as collected under other regulations, the Agency does believe that data collected under other regulations can assist in listing and delisting decisions. In the Agency's review of non-aerosol forms of hydrochloric acid, EPA has not uncovered any information to indicate that non-aerosol forms of this chemical cause significant adverse human health or environmental effects of sufficient seriousness to warrant reporting.

A number of comments received from industry contend that any significant adverse effects that may be caused from releases of non-aerosol forms of hydrochloric acid are already addressed through several other regulations. Additional comments from industry asserted that non-compliance with other statutes must be addressed through the enforcement mechanisms of those statutes and should not be considered in EPCRA section 313 listing or delisting decisions.

EPA agrees with the commenters that non-compliance with other statutes should be addressed through those regulations. However, the Agency has also found that the EPCRA section 313 data are useful in identifying facilities that may not be in compliance with a particular statute.

EPA received comments that stated that the removal of non-aerosol forms of hydrochloric acid will have the effect of removing industry's incentive for conducting pollution prevention efforts for their uses of this chemical which is contrary to the intent of the PPA.

EPA does not agree that this delisting action will undermine pollution prevention efforts. There are numerous other incentives for facilities to reduce their releases of a specific chemical, including financial incentives. In addition, facilities will be able to focus their pollution prevention efforts and report their progress on the forms of hydrochloric acid that pose the greatest hazard, the aerosol forms.

III. Final Rule and Rationale for Delisting

A. Comments on the Proposed Modification to Delete Non-Aerosol Forms of Hydrochloric Acid

EPA received 21 written comments (i.e., in addition to those received at the public meeting) on the proposed deletion of non-aerosol forms of hydrochloric acid from the EPCRA section 313 toxic chemical list, all of which supported the proposed action. All 21 comments were from industry representatives. All commenters supported the listing modification on the grounds that non-aerosol forms do not meet the statutory criteria of section 313(d)(2)(A)-(C). One commenter from the International Dairy Foods Association requested that this listing modification be extended to include non-aerosol forms of phosphoric and nitric acids. Specifically, the commenter ''support[s] an alternative listing option that eliminates the reporting requirement for all transfers to Publicly Owned Treatment Works (POTW) of all non-aerosol forms of mineral acids.''

The commenter refers to an issue raised at the March 3, 1993 public meeting regarding the health and safety of POTW workers that may be jeopardized as a result of transfers of mineral acids to POTWs. The commenter contends that the effluent guidelines, issued under 40 CFR part 403, prohibit an effluent discharge to a POTW with a pH below 5. The commenter continues, ''EPA has stated that a pH between 6 and 9 is neutral, therefore, the only concern is for discharges [within effluent guidelines] between pH 5 and pH 6.'' The commenter compares this range with that of acid rain. The commenter further states that he is ''unaware of any human health hazard associated with direct contact with acid rain, and therefore, continuing to report releases between a pH of 5 and 6 provides no benefit to POTW workers.''

The Agency is currently reviewing the toxicity hazards associated with phosphoric and nitric acid to determine if any modification to the EPCRA section 313 reporting requirements for these acids is appropriate. However, in response to a petition that was withdrawn, EPA has published an analysis of the hazards associated with phosphoric acid (55 FR 25876, June 25, 1990). There are also additional concerns for nitric acid. In addition to exhibiting the characteristic of acidity, nitric acid, when neutralized, exhibits the toxicity of a nitrate compound. On November 30, 1994 (59 FR 61432), EPA added a nitrate compounds category to the EPCRA section 313 list of toxic chemicals based on the toxicity of nitrate. EPA believes that water dissociable nitrate compounds meet the criteria of EPCRA section 313(d)(2)(B).

B. Rationale for Delisting and Conclusions

EPA has concluded that the assessment set out in the proposed rule should be affirmed. Specifically, hydrochloric acid aerosols meet the toxicity criteria of section 313(d)(2), while non-aerosol forms of the acid do not. EPA's decision to delete non-aerosol forms of hydrochloric acid is based on the Agency's evaluation of the toxicity of non-aerosol forms of hydrochloric acid and the levels of hydrochloric acid exposure to which humans and the environment may be subject (Ref. 1). The non-aerosol forms of hydrochloric acid are acutely toxic at low pH; however, there is no information to indicate that non-aerosol forms of hydrochloric acid present a health or environmental risk as a result of continuous, or frequently recurring, releases from facilities.

EPA has concluded that non-aerosol forms of hydrochloric acid do not meet the statutory criterion of section 313(d)(2)(A) regarding acute human health effects; specifically, that the ''chemical is known to cause or can reasonably be anticipated to cause significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility boundaries as a result of continuous, or frequently recurring, releases.'' EPA's review of the toxicity and exposure information indicates that although hydrochloric acid in concentrated forms is acutely toxic, it is unlikely that persons will be exposed to acutely toxic concentration levels beyond facility boundaries as ''a result of continuous, or frequently recurring, releases.''

Rather than being dependent upon average dose over time, e.g., quantity ingested as milligrams/kilogram/day (mg/kg/day), the chronic toxicity hazard of non-aerosol forms of hydrochloric acid is primarily dependent on the pH of the solution which is directly related to the concentration of hydrochloric acid in the solution. Only solutions of high hydrochloric acid concentration (i.e., solutions with a pH of approximately 1 or lower) express this chronic toxicity hazard. The physical and chemical properties of hydrochloric acid (Ref. 2) are such that, in the environment, highly concentrated solutions (i.e., solutions with low pH) are not anticipated to be sustained for any significant period of time, particularly in water. Therefore, concentrations of non-aerosol forms of hydrochloric acid that can express a chronic toxicity hazard are unlikely to exist in the environment, particularly in water. Because the physical and chemical properties of non-aerosol forms of hydrochloric acid limit its existence as highly concentrated solutions in the environment and because only highly concentrated solutions result in a pH low enough to cause chronic toxicity, non-aerosol forms of hydrochloric acid pose a low chronic toxicity hazard to human health. Therefore, EPA has concluded that non-aerosol forms of hydrochloric acid do not meet the chronic toxicity listing criterion in section 313(d)(2)(B), because the chemical in its non-aerosol forms is not known to cause nor can reasonably be anticipated to cause chronic health effects.

As with chronic human health effects, the adverse environmental effects of non-aerosol forms of hydrochloric acid are dependent on the pH of the solution which is directly related to the concentration of hydrochloric acid in the solution. Adverse environmental effects are observed at pH levels below approximately 5.0. Based on the amount of hydrochloric acid required to maintain a pH of 5.0 or less, the non-aerosol forms of hydrochloric acid are considered to pose a moderate hazard to aquatic organisms. Given the regulatory restrictions governing handling and environmental releases of concentrated hydrochloric acid, exposures to pH levels below 5.0 are primarily a result of accidental releases. The data indicate that accidental releases of hydrochloric acid to surface waters are infrequent and isolated occurrences. In only a few circumstances could evidence of adverse environmental effects (e.g., fish kills) be found. Chronic aquatic toxicity is not expected to occur since any pH excursions are expected to dissipate rapidly due to the physical and chemical properties of non-aerosol forms of hydrochloric acid (Ref. 2). Therefore, the environmental listing criterion, 313(d)(2)(C), is not met because the non-aerosol forms of hydrochloric acid are not known to cause nor can they be reasonably anticipated to cause a significant adverse effect on the environment of sufficient seriousness to warrant release reporting.

Although not a factor in the delisting decision, deleting non-aerosol forms of hydrochloric acid from the section 313 list will not result in any significant reduction in the information now available to the public concerning spills of hydrochloric acid. Since reporting of spills under section 313 is only required to be submitted to EPA as part of an overall annual release number, no direct and immediate notice to the public of such an accidental release or spill of hydrochloric acid is available through section 313 reports or through the Toxic Release Inventory (TRI) data base, i.e., only annual release figures are available. In addition, other statutory mechanisms exist by which information on spills of hydrochloric acid will be made available to the public. These mechanisms, which are the same as for sulfuric acid, are detailed in Unit III.A. of the preamble to the Final Rule on sulfuric acid (60 FR 34183).

Therefore, EPA is modifying the listing for hydrochloric acid by deleting non-aerosol forms of hydrochloric acid. For the purposes of this deletion, EPA considers the term aerosol to cover any generation of airborne hydrochloric acid (including mists, vapors, gas, or fog) without regard to particle size. This action to delete non-aerosol forms of hydrochloric acid from the section 313 list is not meant to suggest that the Agency considers hydrochloric acid to be a ''safe'' chemical. Rather, this action reflects the fact that non-aerosol forms of the chemical do not meet the toxicity criteria set forth in EPCRA section 313(d)(2). Nor is today's action intended, or should it be inferred, to affect the status of non-aerosol forms of hydrochloric acid under any other statute or program other than the reporting requirements under EPCRA section 313.

C. Reporting Aerosol Forms of Hydrochloric Acid

For purposes of threshold determination under 40 CFR 372.25, any generation of airborne hydrochloric acid (including mists, vapors, gas, or fog) without regard to particle size, is considered manufacture of hydrochloric acid aerosols. The quantity of airborne hydrochloric acid manufactured, not the amount released, would be compared

with the reporting thresholds in EPCRA section 313(f).

Generation of airborne hydrochloric acid is expected to occur from, but is not limited to: The reaction of alkali metal chlorides (e.g., sodium chloride, potassium chloride) by strong acids (e.g., sulfuric acid); the reaction of alkali metal chlorides with sulfur dioxide in the presence of air and water; the reaction of hydrogen with chlorine; syntheses of organic compounds that require the use of chlorine or chloride-containing substances; combustion of organic chlorides or inorganic chlorides; production or processing of solutions of hydrochloric acid; and volatilization or vaporization of hydrochloric acid from manufacture or processing. EPA will be developing a guidance document to assist facilities in determining whether the facilities are manufacturing, processing or otherwise using aerosol forms of hydrochloric acid as defined under EPCRA section 313.

IV. Effective Date

This action becomes effective July 25, 1996, thus the last year in which facilities had to file a TRI report for non-aerosol forms of hydrochloric acid was 1995, covering releases and other activities that occurred in 1994. Section 313(d)(4) provides that ''[a]ny revision'' to the section 313 list of toxic chemicals shall take effect on a delayed basis. EPA interprets this delayed effective date provision to apply only to actions that add chemicals to the section 313 list. For deletions, EPA may, in its discretion, make such actions immediately effective. An immediate effective date is authorized, in these circumstances, under 5 U.S.C. section 553(d)(1) because a deletion from the section 313 list relieves a regulatory restriction.

EPA believes that where the Agency has determined, as it has with these non-aerosol forms of hydrochloric acid, that a chemical does not satisfy any of the criteria of section 313(d)(2)(A)-(C), no purpose is served by requiring facilities to collect data or file TRI reports for that chemical, or, therefore, by leaving that chemical on the section 313 list for any additional period of time. This construction of section 313(d)(4) is consistent with previous rules deleting chemicals from the section 313 list. For further discussion of the rationale for immediate effective dates for EPCRA section 313 delistings, see 59 FR 33205 (June 28, 1994).

V. Additional Time to Report for 1995

EPA recognizes that today's action has come so close to the extended August 1, 1996, deadline for filing TRI reports for the 1995 reporting year (see 61 FR 2721, January 29, 1996) that facilities that have not yet filed their report for hydrochloric acid may not have sufficient time to reassess their threshold determinations and release estimates based on the new reporting requirements for hydrochloric acid. Therefore, in order to avoid inaccurate and unnecessary reporting and to reduce the reporting burden associated with the filing of revised reports, EPA is allowing an additional two weeks, until August 15, 1996, for facilities to file their TRI reports for hydrochloric acid (acid aerosols). TRI Reports on hydrochloric acid (acid aerosols) for the 1995 reporting year that are filed after August 15, 1996, will be subject to EPA enforcement action, where appropriate. This 2-week extension applies only to TRI reports for hydrochloric acid; reports for all other chemicals subject to the reporting requirements of EPCRA section 313 and PPA section 6607 are still subject to the August 1, 1996 reporting deadline.

Facilities that have already filed a Form R report for hydrochloric acid covering Reporting Year 1995 may wish to either: (1) Revise this report, or (2) submit a withdrawal request if the facility did not exceed the appropriate threshold for the aerosol forms of the chemical, or (3) submit a withdrawal request if the threshold determinations were made on non-aerosol forms of hydrochloric acid only. Revisions and withdrawal requests must be submitted no later than October 15, 1996. Unless EPA receives a revision or withdrawal request by October 15, 1996, EPA will include, in the TRI under the hydrochloric acid (acid aerosols) listing, all hydrochloric acid release and waste management information as reported on each Form R received. This will include any quantities of the non-aerosol forms of hydrochloric acid that where included on a facility's Form R report.

This allowance of additional time for reporting on hydrochloric acid applies only to the EPCRA section 313/PPA section 6607 reporting obligations for TRI reports otherwise due on August 1, 1996, covering calendar year 1995. Nothing in this notice regarding extension of reporting deadlines shall be construed to apply to any other EPCRA reporting obligations, or to any TRI reports due for past or future reporting years. Further, this allowance of additional time for reporting applies only to the federal EPCRA section 313/PPA section 6607 reporting obligation; it does not apply to independent obligations under State laws which also require TRI-type reports. However, EPA encourages the States with similar requirements that relate to federal TRI reporting to embrace this allowance of additional time.

To the extent that this action extending the reporting deadline might be construed as rulemaking subject to section 553 of the Administrative Procedure Act, for the reasons stated above, EPA has determined that notice and an opportunity for public comment are impracticable and unnecessary. Providing for public comment might further delay reporting, and, because there is no substantive change in the reporting obligation, other than allowing an additional 2 weeks, the public will continue to receive the same information, though slightly delayed. Also, public comment would not further inform EPA's decision because the event giving rise to the need to provide extra time for reporting on hydrochloric acid has already occurred. In addition, additional notice and comment procedures in this situation would be contrary to the public interest in timely and accurate reporting of data under EPCRA section 313 and PPA section 6607.

VI. Rulemaking Record

The record supporting this decision is contained in docket control number OPPTS-400062A. All documents, including an index of the docket and the references listed in Unit VI. of this preamble, are available in the TSCA Nonconfidential Information Center (NCIC), also known as, TSCA Public Docket Office from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. TSCA NCIC is located at EPA Headquarters, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

VII. References

1. USEPA. 1995. Technical Support Document for the Petition to Delist Non-aerosol Forms of Hydrochloric Acid from EPCRA Section 313.

2. Brady, J.E., Humiston, G.E. General Chemistry Principles and Structure. John Wiley & Sons, New York, (1978), pp. 394-431.

VIII. Regulatory Assessment Requirements

It has been determined that this action is not a ''significant regulatory action'' within the meaning of Executive Order 12866 (58 FR 51735, October 4, 1993), because this action eliminates an existing regulatory requirement. The Agency estimates the cost savings to industry from this action to be between $4.9 and $7.6 million per year. The cost savings to EPA is estimated at $135,000 to $201,000 per year. The lower bound estimate of the total annual savings for

industry and EPA from this action is $5,035,000 and the upper bound estimate is $7,801,000.

This action does not impose any Federal mandate on State, local or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). And, given its deregulatory nature, I hereby certify pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this action does not have a significant economic impact on a substantial number of small entities. As required, information to this effect has been forwarded to the Small Business Administration.

This action does not have any information collection requirements subject to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The elimination of the information collection components for this action is expected to result in the elimination of 92,000 to 141,000 paperwork burden hours.

In addition, pursuant to Executive Order 12898 (59 FR 7629, February 16, 1994), entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' the Agency has determined that there are no environmental justice related issues with regard to this action since this final rule simply eliminates reporting requirements for a chemical that, under the criteria of EPCRA section 313, does not pose a concern for human health or the environment.

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104-121, 110 Stat. 847), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: July 19, 1996.

Lynn R. Goldman,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 372 is amended as follows:

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

§ 372.65 [Amended]

2. Sections 372.65(a) and (b) are amended by adding the parenthetical to the entry for hydrochloric acid to read ''Hydrochloric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size)'' under paragraph (a) and for CAS number entry 7647-01-0 under paragraph (b).

[FR Doc. 96–18944 Filed 7–24–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20 and 52

[CC Docket No. 95–116; FCC 96–286]

Telephone Number Portability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On June 13, 1995, The Commission adopted a notice of proposed rulemaking (CC Docket No. 95–116) regarding telephone number portability . The First Report and Order released July 2, 1996, promulgates rules and regulations implementing the statutory requirement that local exchange carriers (LECs) provide number portability as set forth in section 251 of the Telecommunications Act of 1996 (1996 Act). The Report and Order mandates the implementation of number portability by LECs, consistent with the procompetitive goals of the Telecommunications Act of 1996. Concurrently with the adoption of the Report and Order, the Commission adopted a Further Notice of Proposed Rulemaking which is published elsewhere in this issue.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Jason Karp, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1517, or Mindy Littell, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1394. For additional information concerning the information collections contained in this Report and Order contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order adopted June 27, 1996, and released July 2, 1996. The full text of this First Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc96286.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M St., NW., Suite 140, Washington, DC 20037. Pursuant to Section 251, the Report and Order establishes performance criteria for acceptable long-term number portability methods and requires all LECs to begin deploying number portability in the 100 largest Metropolitan Statistical Areas (MSAs) no later than October 1, 1997, and to complete deployment in those MSAs by December 31, 1998, in accordance with a phased schedule. Number portability must be provided in these areas by all LECs to all telecommunications carriers, including commercial mobile radio services (CMRS) providers. In addition, pursuant to the Commission's independent authority under sections 1, 2, 4(i) and 332 of the Communications Act of 1934, as amended, the Report and Order requires all cellular, broadband personal communications services (PCS) and covered Specialized Mobile Radio (SMR) service providers to be able to deliver calls from their networks to ported numbers anywhere in the country by December 31, 1998, and requires cellular, broadband PCS and covered SMR customers to be able to move their own numbers to other carriers by June 30, 1999. In the Report and Order, the Commission delegates responsibility to the North American Numbering Council (NANC) to oversee the initial administration of the system of regional databases which will be used by carriers to provide number portability. Pursuant to the 1996 Act, the Commission also requires LECs to provide currently available number portability measures upon specific request from another carrier until long-term number portability is available. However, the Report and Order concludes that CMRS providers need not provide such measures due to technical considerations specific to the CMRS industry. In addition, consistent with section 251(e)(2) of the Telecommunications Act of 1996, the Report and Order sets forth principles that ensure that the costs of currently available measures are borne by all telecommunications carriers on a competitively neutral basis, and permits states to utilize various cost recovery mechanisms, so long as they are